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March 13, 1995

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NY BAR ONLY

BY TELECOPYThomas J. Martin, Esq.
Associate Regional Counsel
United States Environmental Protection Agency
Region Five
77 West Jackson Boulevard
Chicago, Illinois 60604-3590Re: Access to Property Known as Sauget Area 1,
Site G, Sauget Illinois

Dear Mr. Martin

This office represents Cerro Copper Products Co. ("Cerro") in the above-referenced matter. We are submitting this letter in response to yours of March 2, 1995 requesting access to the small portion of Site G that Cerro owns. As we advised in our January 17, 1995 letter to the Agency, Cerro has never conducted or actively permitted the disposal of any hazardous substances on the portion of Site G that it owns. Indeed, Cerro has not conducted any operations whatsoever on this piece of property and has no present or future plans to do so. As access issues are likely to come up from time to time as the Agency evaluates its options with respect to Site G, Cerro would propose to resolve these access issues once and for all by simply conveying this small portion of Site G to the Agency by way of a quitclaim deed.

We understand that it may take the Agency some time to evaluate this proposal. In the meantime, we are willing to grant to officers, employees, contractors and authorized representatives of the Agency access to the property for the purposes described in the Consent for

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0785-766 FAX# 952-5820 FROM LSK&B 994-9858 MAIN 9586-466 89X77 W024

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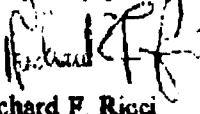
March 13, 1995

Access that you forwarded. We would, however, request that language be added to the Consent for Access that would release and indemnify Cerro for any personal injury or property damage that any person or entity might incur while on Cerro's property pursuant to the Consent for Access. We would be happy to prepare language that could be added to the Consent for Access, or in the alternative, prepare a new Access Agreement incorporating these concepts, as you prefer.

We are, however, extremely reluctant to grant access to the property to any personnel or employees of Monsanto Company. As we understand it, Monsanto has neither committed to perform any removal activities at Site G, nor has it entered into any type of oversight document with the Agency to conduct an Agency-sanctioned assessment of the site. As you know, Cerro is currently engaged in a cost-recovery action with Monsanto relating to Cerro's removal action at Dead Creek Segment A. Discovery in that lawsuit is now closed. In the course of the lawsuit, Monsanto has raised a number of allegations regarding the source of PCB contamination in Dead Creek. One such argument is that the PCB contamination in Dead Creek Segment A could have resulted, in part, from migration of contaminants from Site G. While it is our position that these arguments are totally groundless, Cerro is unwilling to allow Monsanto access to its property to collect information that Monsanto may subsequently try to use in litigation against Cerro. In light of the positions taken by Monsanto in the litigation, Cerro simply cannot permit Monsanto to conduct a "fishing expedition" on Site G absent a commitment by Monsanto to actually conduct the removal activities at the Site.

We are, of course, available to discuss these matters further.

Very truly yours,



Richard F. Ricci

RFR:ljc

cc: Mr. Joseph M. Grana, Manager of Environmental
and Energy Affairs, Cerro Copper



U. S. Environmental Protection Agency

(CM-29A) 77 W. JACKSON BLVD., CHICAGO, IL 60604



Office of Regional Counsel Region 5

FACSIMILE TRANSMITTAL FORM

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Fax number: 312 9176

Fax Sender: THOMAS J. MARTIN, ASSOCIATE REGIONAL COUNSEL
Dept/Agency: MULTI-MEDIA BRANCH, SECTION II
Telephone: 312-886-4273
Fax Number: 312-886-0747
Subject: _____

(INCLUDING COVER SHEET):

Number of Pages: 3

Comments: Please review & Call me to discuss

